

USSN: 08/844,336  
Atty. Dkt. No.: 9400-0005  
Client Dkt. No.: PXE.002.US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of:	Examiner: R. Zeman
CONTAG et al.	Group Art Unit: 1645
Serial No.: 08/844,336	Confirmation No.: 7227
Filing Date: April 18, 1997	Customer No.: 20855
Title: BIODETECTORS TARGETED TO SPECIFIC LIGANDS	

**TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**COPY**

Sir:

1. I, Dahna S. Pasternak, state that I am an attorney of record in the above-captioned application and am a representative authorized to sign this document on behalf of Xenogen Corporation, the assignee for this invention.

2. The assignee of record is Xenogen Corporation, having a place of business at 860 Atlantic Avenue, Alameda, CA, 94501.

3. The assignee is the owner of the entire right, title and interest in the invention disclosed and claimed in the above-captioned application, U.S. application serial no. 08/844,336, filed April 18, 1997, by virtue of an assignment recorded October 6, 1998 at Reel 9497, Frame 0636, and is also the owner of the entire right, title and interest in U.S. Patent No. 6,638,752, issued October 28, 2003, by virtue of the above assignment.

4. In accordance with 37 C.F.R. §3.73(b), the undersigned hereby certifies that the evidentiary documents with respect to the assignee's ownership, copies of which are appended hereto, have been reviewed and that, to the best of his/her knowledge and belief, title is in the assignee seeking to take this action.

5. The assignee hereby disclaims the terminal part of any patent granted on the above-captioned application serial no. 08/844,336 which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Patent No. 6,638,752, except as provided below, and agrees that any patent granted on the above-captioned application serial no. 08/844,336 will be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,638,752, this agreement to run with any patent granted on the above-captioned application serial no. 08/844,336 and to be binding upon the grantee, its successors or assigns.

6. In making this disclaimer, the assignee does not disclaim the terminal part of any patent granted on the above-captioned application serial no. 09/925,796 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Patent No. 6,638,752, in the event that it later (a) expires for failure to pay a maintenance fee, (b) is held unenforceable, (c) is found invalid by a court of competent jurisdiction, (d) is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, (e) has all claims cancelled by a reexamination certificate, (f) is reissued, or (g) is, in any manner, terminated prior to the expiration of its full statutory term.

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7. The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 18-1648 (attorney docket no. 2300-1468).

Executed at Palo Alto, CA  
By: Rastinah  
Title: Attorney of Record  
Date: 12/22/03